



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY )  
AVERAGE WHOLESALE PRICE ) MDL No. 1456  
LITIGATION )  
 ) CIVIL ACTION: 01-CV-12257-PBS  
 )  
THIS DOCUMENT RELATES TO ) Judge Patti B. Saris  
ALL ACTIONS )  
 )

**NOTICE OF DEPOSITION AND REQUEST FOR PRODUCTION OF DOCUMENTS**

**TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

Pursuant to Federal Rule of Civil Procedure 30, Plaintiffs, by their attorneys, will take the oral depositions, before a person contemplated by Fed.R.Civ.P. 28(a), of the following Defendant Aventis Pharmaceuticals employees:

G.R. Green October 26, 2005 at 10:00 a.m.

Randy Colvin November 1, 2005 at 10:00 a.m.

The depositions will take place at the Offices of Shepherd, Finkelman, Miller & Shah, LLC, 65 Main Street, Chester, Connecticut 06412 or at such other location as the parties mutually agree upon. The depositions may be recorded by stenographic and/or sound and visual means.

Pursuant to Fed. R. Civ. P. 30(b)(5), the deponents are requested to respond to the Request for Production of Documents accompanying this notice in Schedule “A.”

You are invited to attend and examine the witness.

Respectfully submitted,

**SPECTOR, ROSEMAN & KODROFF, P.C.**

By /s/ John Macoretta

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Dated: October 4, 2005

**SCHEDULE A**

**DEFINITIONS**

1. "Document(s)" is used in the broadest possible sense and means without limitation, any written, printed, typed, photostated, photographed, recorded or otherwise reproduced or stored communication or representation, whether comprised of letters, words, numbers, data, pictures, sounds or symbols, or any combination thereof. This definition includes copies or duplicates of documents contemporaneously or subsequently created which have any non-conforming notes or other markings. Without limiting the generality of the foregoing, "document" includes, but is not limited to, correspondence, memoranda, notes, records, letters, envelopes, telegrams, messages, studies, analyses, contracts, agreements, working papers, accounts, analytical records, reports and/or summaries of investigations, trade letters, press releases, comparisons, books, calendars, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, drawings, diagrams, instructions, notes of minutes of meetings or of other communications of any type, including inter-office and intra-office communications, electronic mail/messages and/or "e-mail," electronically stored telephone messages and/or "voice-mail," questionnaires, surveys, charts, graphs, photographs, phonograph recordings, films, tapes, disks, data cells, print-outs of information stored or maintained by electronic data processing or word processing equipment, all other data compilations from which information can be obtained (by translation, if necessary, by you through detection devices into usable form), including, without limitation, electromagnetically sensitive storage media such as floppy disks, hard disks and magnetic tapes and any preliminary versions, as well as drafts or revisions of any of the foregoing, whether produced or authored by you or anyone else.

2. "All documents" means every document and every non-identical copy known to you and every such document or writing which you can locate or discover by reasonably diligent efforts, including, but not limited to, documents now in the possession, custody or control of

Defendant, its merged or acquired predecessors, its former and present directors, officers, counsel, agents, employees and/or persons acting on its behalf.

3. The term "Defendant" refers to Aventis Pharmaceuticals and/ or Hoechst Marion Roussel.

4. "You" or "Your" means the deponent to whom this subpoena is directed (*e.g.*, Randy Colvin and/or G.R. Green).

5. "Person" shall refer to natural persons, firms, joint owners, associations, companies, partnerships, joint ventures, corporations, trusts, estates, agencies, departments or bureaus (governmental or private), and any other form of business, governmental or juridical person, or legal entity.

6. "Concerning" means relating to, referring to, in connection with, pertaining to, describing, discussing, analyzing, reflecting, summarizing, evidencing, embodying, or constituting.

7. "Meeting" means any discussion between two or more persons either in person or telephonically.

8. "Communication" and "communications" are used in a comprehensive sense, and shall mean and include every conceivable manner or means of disclosure, transfer or exchange of oral or written information (in the form of facts, ideas, inquiries or otherwise) between one or more persons or entities including, but not limited to, writings, documents, inter- and intra-office memoranda, correspondence, meetings, conferences, conversations, and/or agreements, whether face-to-face, by telephone, by mail, by telecopier, by telex, by computer or otherwise.

9. "AWP" means the Average Wholesale Price reported to and/or reported by an industry trade Publication.

10. "Spread" refers to the difference between (i) the AWP or any price upon which reimbursement for a drug is based (including but not limited to reimbursements made by Medicare, Medicaid, a health insurer, a health maintenance organization, and a PBM), and (ii) the actual or net price paid for a drug.

11. "Publication" means a publication identified in Health Care Financing Administration Program Memorandum AB-99-63 and includes the *First DataBank*, *Red Book*, *Blue Book*, and *Medispan*.

12. "Provider" means any physician or entity that provides health care to any patient or any buying group acting on behalf of providers.

### **RULES OF CONSTRUCTION**

1. All/Each - The terms "all" and "each" shall be construed as meaning either all or each as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

2. And/Or - The connectives "and" and "or" shall be construed either disjunctively and conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

3. The use of the singular form of any word shall include the plural and vice versa.

4. The masculine gender includes the feminine.

### **INSTRUCTIONS**

1. In producing documents and other materials, you must furnish all documents or things in your possession, custody, or control related and/or responsive to the requested documents.

2. In producing documents, you must produce the original of each document requested together with all non-identical copies and drafts of that document. If the original of any document cannot be located, a copy shall be provided in lieu thereof, and shall be legible and bound or stapled in the same manner as the original (to the extent this is known).

3. Documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to identify any file number, file name, or any other file identification system utilized by the responding party, as well as the location and custodian of such records. These requests include Plaintiff's request to physically inspect any file drawer,

filings cabinet or any other storage device where documents responsive to these requests are maintained at the time of the inspection of such documents.

4. Documents attached to each other should not be separated.

5. If any responsive document was, but is no longer in the possession or subject to your control, state whether it (i) is missing or lost, (ii) has been destroyed, (iii) has been transferred, voluntarily or involuntarily, to others, or (iv) has been otherwise disposed of, and in each instance explain the circumstances surrounding, and state the date or approximate date of, such disposition.

6. In the event that you object to any document request on the grounds of privilege or work product, a statement shall be provided as to each document, which includes:

The name of the author of the document;

The name of the recipient of the document;

The names of the persons to whom copies were sent;

The job title of every individual named in (a), (b), and (c) above;

The date the document was created, sent, and received;

The location of the document;

The custodian of the document;

A brief description of the nature and subject matter of the document; and

A statement of the privilege asserted and each and every fact or basis upon which a privilege is claimed or on which the document is otherwise withheld.

7. Notwithstanding the assertion of any objection to production, if a document contains non-objectionable or non-privileged matter, please produce that document, redacting that portion for which the objection is asserted, provided that the identification requested in paragraphs (h) and (i) above are furnished.

**RELEVANT TIME PERIOD**

Unless otherwise stated, these requests call for the production of all documents identified in the requests that were generated and/or maintained in your personal files between 1996 and the present.

**SUBJECT DRUGS**

The drugs that are the subject of the below requests are as follows:

**DEFENDANT, THE AVENTIS GROUP (PHARMA, HOECHST AND BEHRING)**

**DRUG**

Anzemet

Taxotere

These drugs are referred to as "subject drugs."

**DOCUMENTS TO BE PRODUCED**

1. All memos, electronic correspondence, or similar activity reports that you have maintained in your personal files made by you for your manager or other supervisory personnel while you were an employed by the Defendant.
2. All documents that compare AWPs to the costs of a subject drug, a competing drug or both that you have maintained in your personal files.
3. All documents that you maintained in your personal files regarding any economic analysis done for a provider concerning a subject drug, including but not limited to financial comparisons that you have created, used on sales calls or received and which concern AWP or rebates while you were employed by the Defendant.
4. All documents maintained in your personal files regarding the provision by you to a provider of AWPs for any subject drug or reflecting a discussion between you and a provider regarding AWP.

5. All contracts, sales and promotional materials used by you while an employee of Defendant.

6. All sales material acquired at any meetings, national sales seminars, or educational classes held by Defendant and maintained in your personal files.

**CERTIFICATE OF SERVICE**

I hereby certify that on October 4, 2005, I served true and correct copies of the foregoing Notice of Deposition via Verilaw on all counsel of record.

/s/ John Macoretta  
Jeffery Kodroff, Esquire  
John Macoretta, Esquire  
Spector, Roseman & Kodroff, P.C.  
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	)	CIVIL ACTION: 01-CV-12257-PBS
THIS DOCUMENT RELATES TO	)	Judge Patti B. Saris
ALL ACTIONS	)	
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**NOTICE OF DEPOSITION**

**TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

Pursuant to Federal Rule of Civil Procedure 30, Plaintiffs, by their attorneys, will take the oral deposition, before a person contemplated by Fed.R.Civ.P. 28(a), of the following Defendant Aventis Pharmaceuticals employee:

John DuPont

November 8, 2005 at 10:00 a.m.

The deposition will take place at the Offices of Shepherd, Finkelman, Miller & Shah, LLC, 65 Main Street, Chester, Connecticut 06412 or at such other location as the parties mutually agree upon. The deposition may be recorded by stenographic and/or sound and visual means.

You are invited to attend and examine the witness.

Respectfully submitted,

**SPECTOR, ROSEMAN & KODROFF, P.C.**

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Dated: October 14, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that on October 14, 2005, I served true and correct copies of the foregoing Notice of Deposition via Verilaw on all counsel of record.

/s/ John Macoretta  
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